

Office of Massachusetts Attorney General

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Face to Face Mediation Program Standards and Responsibilities

Fiscal Year 2017

Requirements

1. Use of Funds: Face to Face Mediation Program (FTFMP) grant funds shall only be used for expenses involved with the intake, resolution, administration of consumer complaints and outreach concerning consumer topics.
 - No funding shall be used for expenses outside of the Commonwealth, including but not limited to conference/convention fees, travel or lodging.
2. FTFMPs will provide service to the designated geographic area as specified in the Scope of Services.
3. Pursuant to [M.G.L. c. 12, §8\(F\)\(J\)](#), all charitable organizations, except those organized exclusively for religious purposes, which are eligible for tax exempt status under 26 U.S.C. §501(c)(3) must register, file annual financial reports, and be up to date with all reporting requirements of the Non-Profit Organization/Public Charities Division of the Attorney General's Office (AGO) in order to be eligible to receive grant funding from the AGO.
4. It is the duty of all grant funded programs to immediately notify the AGO if your organization is the subject of any investigation, complaint, or lawsuit by any federal, state, or local law enforcement or regulatory agency.
5. Unemployment Insurance The AGO requires that FTFMP grant recipients choose the "contributory" rather than the "reimbursable" method of financing unemployment benefits as allowed under the Employment Security Law ([151A, §14A](#)). FTFMP grant monies may be used for the quarterly contributions to the unemployment insurance fund. However, under no circumstances can FTFMP grant monies be used to pay unemployment benefits.
6. As a condition of grant award, each Program agrees that representatives of the AGO at any time may review the financials, print and electronic records, and/or filing system of the Program to ensure compliance with the terms of the grant award. Such inspection, review and/or audit by representatives of the AGO may occur at any time, with or without notice to the Program.
7. Failure to comply with any portion of the Scope of Services and Standards and Responsibilities may result in:
 - Forfeiture of grant monies not yet disbursed and/or reimbursement of previous monies awarded; or
 - Suspension or termination of grant program.

Relationship to the AGO

1. Any time reference is made to the Program's affiliation with the AGO (in writing or verbally,) use the statement "working in cooperation with the Massachusetts Attorney General's Office."
2. The Program agrees to identify the AGO as a funding source for the consumer mediation program in any printed or electronic materials.
3. The point of contact for the Program in the AGO is Allyson Trenteseaux, Program Manager in the Community Engagement Division, (617) 963-2077 or Allyson.Trenteseaux@state.ma.us.

Minimum Standards of Performance

1. Each Program is responsible for providing a minimum of 30 hours per week of operations. Operations may include but are not limited to: mediations both in court and/or in office and outreach events. Additionally, each Program must have an answering machine or voicemail system to receive calls outside of hours of business. When a call cannot be answered during business hours, calls must be routed to an answering machine or voicemail system.
2. Notice of all office closings must be submitted to Allyson Trenteseaux, Allyson.Trenteseaux@state.ma.us at least **fourteen (14)** days in advance.
 - a. Closings include but are not limited to: scheduled vacations, office holidays and events (outside of Federal holidays), and planned outreach and trainings.
 - b. In the event of an office closing, the office's voicemail must indicate that the office is closed, when the office will reopen, and a number for immediate assistance.
 - c. In the event of an unanticipated closure, i.e. storm closure, utilize best judgment as to whether the office will be open. If the decision is to close, please send notification to the email addresses listed above.
3. No Program shall close for 2 or more consecutive business days without advance written notice to and approval from the AGO.
4. At least one representative from the Program must attend any regularly scheduled in-person or telephone conference calls scheduled by the AGO.
5. Each Program agrees to accept for its service area mediation referrals from the AGO and complaints filed directly with its office regardless of the location of the parties. These complaints should be mediated or referred to another agency as appropriate with consideration being given to the consumer's request regarding the geographic location.
6. **Data Security** - Each program shall develop, implement, maintain, and monitor a Written Information Security Program (WISP) designed to safeguard the personal information of residents of the Commonwealth contained in the records of the complaints and referrals. This WISP must be as protective as the Attorney General's in accordance with M.G.L. c. 93H and 940 CMR 27.00.

Education and Outreach

1. Programs are required to organize at least four (4) education, training, or outreach activities in their communities with the funds they receive from the FTFMP per grant year.
 - Programs may not charge any fee for the activities.
 - Activities must be available to the public.
 - Knowing that groups may work with other community organizations that are targeting a specific cohort, these events are typically advertised in a community publication and thus open to the public.
 - Scheduling events in schools or similar establishments is encouraged and understood to not be necessarily open to the public.
 - Attendance at AGO trainings or quarterly meeting do not count towards outreach.

2. In the outreach or education efforts, Programs may only discuss the process of mediation and general consumer related topics. Under no circumstances are the Program staff members to discuss specific details pertaining to mediations, companies, or consumers.

Press Inquiries

1. All inquiries from the press related to information concerning consumer complaints and/or practices of a business must be referred to the press office of the AGO. The press staff may direct the media to the Programs as appropriate, but will first notify the Program director and will discuss the nature of the request and the type of information he/she is at liberty to discuss.
 - a. Program Directors may not talk to the media about complaint-related information until they have received clearance from the AGO press office or other Attorney General staff. The AGO's Press Office can be reached at 617-727-2543.
 - b. Upon approval from the AGO's Press Office, the Program may discuss generally with the press the type of service it provides and the kinds of complaints the program typically handles.
 - c. In any press contact, the Program should mention that it is a recipient of a FTFMP grant and that it works in cooperation with the AGO.
 - d. If a Program has a regularly scheduled appearance on or in the local media, the AGO shall be notified as soon as each occurrence is scheduled and the topic to be discussed. A prescheduled list of occurrences, topics and dates is also acceptable.

Public Records Requests/Records Retention

Maintenance and release of records made pursuant to this grant award will be done in compliance with the provisions of the Massachusetts Public Records Law and Massachusetts Statewide Record Retention schedules.

By accepting grant funds, each Program agrees to cooperate with the Attorney General's Office to comply with records retention and public records requests.

The AGO will be responsible for responding to all public record requests. Under the Massachusetts Public Records Law, requests for inspection or copying of records must be responded to. Regardless of whether the request is made to the Program or to the AGO, the AGO must respond within ten (10) calendar days within the initial receipt of the request.

1. A record is defined as: any document, whether in electronic or paper format, including complaints, correspondence, emails, memos and any notes that are included in or related to a case file.
2. Records Retention:

Please consult the Administrative Office of the Trial Court for clarification and further information.

3. Requests for the Number of Complaints Filed Against a Business: If asked for the number of complaints filed against a particular business refer the caller to the AGO Hotline.
4. Public Records Requests made directly to the Program: The Public Records Law requires a response to oral as well as written requests. These requests will be reviewed and responded to by the AGO in compliance with the Public Records Law.
 - a. Oral Requests: Each program may ask that all requests be put in writing for the purpose of

clarity and directed to the Office of the Attorney General, Consumer Advocacy and Response Division (CARD. If the person making the request declines to do so in writing, forward the following information to CARD immediately:

- i. Date of Request
- ii. Requestor's contact information – mailing and email address, phone number, etc.
- iii. Language used by requestor
- iv. Types of Documents Requested, i.e. complaints only, all additional records.

b. Written Requests for Records: Written requests for records or other information received by or relative to any of the Program's work as it pertains to consumer assistance must be forwarded to the CARD Public Records Officer at (617) 727-3265 (fax). These written requests will be reviewed and responded to by the AGO in compliance with the Public Records Law.

5. Public Records Requests directly made to CARD: The CARD Public Records Officer will contact Programs for information. Programs must provide the information requested by the AGO in the course of a Public Records Request.

Reporting Requirements

On a Quarterly Basis

1. All quarterly reports must be submitted electronically to Allyson Trenteseaux at Allyson.Trenteseaux@state.ma.us.
2. Programs must submit the financial and programmatic reporting forms by: October 17th, 2016, January 16th, 2017, April 17th, 2017 and July 17th, 2017.
3. Documentation (such as vouchers, pay stubs, receipts or copies of receipts) should not be attached to a financial reporting form, but must be made available to the AGO upon request.

Computer Standards

1. Each Program must have a functioning computer with internet access, word-processing, PDF, spreadsheet capability, a printer and access to a scanner.
2. The computer must have an Antivirus and a Firewall program(s) installed and updated regularly.
3. Each Program must have a valid email address for communications with the AGO.
 - a. NOTE: Email is not an acceptable form of mediation therefore mediation should not be conducted in this manner.

Legal Representation

The AGO is not permitted to provide legal representation to Programs, volunteers and/or paid staff of Programs who are sued, subpoenaed, or deposed with respect to mediations handled pursuant to these awards.

Disbursement of Funds to a Grantee

Disbursements of grant award funding will be made on a **quarterly basis**. These disbursements are contingent upon meeting the report due dates noted above in the "Reporting Requirements" section on page 5. Please note that disbursements are made after the submission and review of your reports.

Confidentiality/Conflict of Interest

1. Information the Program gains through its affiliation with the AGO is a record. Such information includes but is not limited to: internal memos, lists and discussions of pending investigations, as well as trends or cases being reviewed by the AGO.
2. Under no circumstances may any Program elicit or attempt to elicit any information from the consumer, other than that pertinent to the resolution of the consumer's complaint.
 - a. Note: Face-to-Face Mediation Programs must also comply with M.G.L. c. 233 § 23C (Work product of mediator confidential; confidential communications; exception; mediator defined)
3. Program staff/volunteers will not disclose any information related to or obtained in the course of mediation to any person other than the participant or the AGO, without the explicit authorization of the participants.
 - a. This authorization is given by the consumer upon signing the AGO complaint form, though it may be prudent to remind consumers of this prior to release of information.
4. Conflict of Interest: [M.G.L. Chapter 268A](#) (Conduct of Public Officials and Employees) may be applicable in some cases.

Administration of Standards and Responsibilities

The AGO may make changes, additions, or deletions to these Standards, may dispense with them entirely, or may waive specific provisions as it deems necessary.

FTFMP's Minimum Standards of Performance

1. Face to Face Mediation Programs (FTFMPs) must adhere to "The Uniform Rules on Dispute Resolution" as set forth by the Trial Court Standing Committee on Dispute Resolution.
2. FTFMPs may not charge for any cases mediated via this grant, including those referred by the AGO, LCP or Court.
3. Mediation should be made available to disputants at times other than the standard hours of operation.

Face-to-Face Mediation Process

1. Once a referral is made, staff should contact the parties by phone or letter to provide an explanation of the face-to-face mediation process.
 - a. *A case should be counted as a "referral" if at least one party has actively contacted the program.*
2. An "Agreement to Participate" form must be signed, in accordance with [M.G.L. c. 233, § 23C](#) of the General Laws, by all parties before mediation.
3. All referrals should receive an I.D. # and be entered into a master log.
4. Terms of agreement should be clearly written on an agreement form; each party should receive a copy. One copy should remain in the case folder. Staff should follow-up on the settlement until all the terms are completed if possible. If no agreement is reached, the parties should be sent back to the referring agent or to small claims court.

5. At the conclusion of each mediation, mediators and clients should fill out post mediation evaluation forms.
6. An agreement should be reported as upheld on the monthly report form if the majority of the term(s) are met.
7. A mediation case folder should contain:
 - a. an intake form;
 - b. a *signed* Agreement to Participate form;
 - c. a client contact sheet with dates/content of actions taken and intake notes;
 - d. post mediation evaluation forms;
 - e. a signed copy of the mediated agreement if in writing;
 - f. notes confirming that the agreement has been upheld and completed (if applicable)
8. Complete case notes shall be kept in the case folder for each complaint. Personal opinions of the mediator or any staff shall not be recorded.

Reporting Requirements

All reports must be submitted electronically to Allyson.Trenteseaux@state.ma.us.